## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

PATRICIA JOHNSON, FAUSTO CABRERA, VELLYN ANTONELLI, CARMEN FOX, MARK ANGELOPOULOS, DIANE ANDERSON JAMES COOLEY and MARGARET COOLEY, on behalf of themselves and all	)	C.A. NO. 10-10316	
others similarly situated,	)		
Plaintiffs, vs.	)		
BAC HOME LOANS SERVICING, L.P., a subsidiary of BANK OF AMERICA, N.A.	)		
Defendant.	)		

## PLAINTIFFS' MOTION FOR PROVISIONAL CLASS CERTIFICATION

Plaintiffs, Patricia Johnson, Fausto Cabrera, Vellyn Antonelli, Carmen Fox, Mark Angelopoulos, Diane Anderson, and James and Margaret Cooley, on behalf of themselves and all others similarly situated, ("Plaintiffs"), respectfully request that this Court enter an order, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2), provisionally certifying the class in this case, defined as follows:

All Massachusetts borrowers who entered into a written Trial Period Plan ("TPP") Agreement with BAC and made the payments identified in Section 2 of the TPP Agreement, other than borrowers to whom BAC sent either:

- (a) a Home Affordable Modification Agreement prior to the date of class certification, or
- (b) a written denial of eligibility on or before the Modification Effective Date identified in Section 2 of the borrower's TPP Agreement.

In support of this motion, Plaintiffs state the following:

1. Plaintiffs brought this action on behalf of themselves and the proposed class defined

above to seek relief for Defendant's failure to honor its agreements with borrowers to modify

mortgages and prevent foreclosures under the U.S. Treasury's Home Affordable Modification

Program ("HAMP").

2. As demonstrated in the supporting memorandum of law, the proposed class meets the

requirements of Rules 23(a) and 23(b)(2).

3. In addition to the memorandum, Plaintiffs rely on the following documents submitted

herewith in support of this motion:

a. Declaration of Gary Klein in Support of Plaintiffs' Motion for Class

Certification;

b. Declaration of Charles Delbaum in Support of Plaintiffs' Motions for Class

Certification and Preliminary Injunction;

WHEREFORE, Plaintiffs respectfully request that the Court grant their motion

for provisional class certification and certify the proposed class for the purposes of

preliminary injunctive relief.

Dated: September 7, 2010

Respectfully Submitted,

Patricia Johnson, Fausto Cabrera, Vellyn Antonelli, Carmen Fox, Mark Angelopoulos, Diane Anderson, and James and Margaret Cooley individually and on

behalf of all others similarly situated,

By their attorneys,

/s/ Charles Delbaum

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Dated: September 7, 2010

## **CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic File (NEF) and paper copies will be sent to those indicated as non-registered participants on the date of filing.

/s/ Charles M. Delbaum Charles M. Delbam